

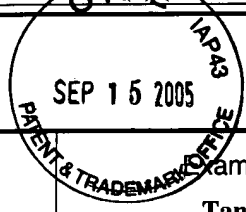
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COMBINED TRANSMITTAL OF APPEAL BRIEF TO THE BOARD OF PATENT APPEALS AND INTERFERENCES & PETITION FOR EXTENSION OF TIME UNDER 37 C.F.R. 1.136(a) (Small Entity)					Docket No. IDS-13802/14							
In Re Application Of: Venegas, Jr.												
Application No. 10/054,122	Filing Date 11/13/2001	Examiner Tan Le	Customer No. 25006	Group Art Unit 3632	Confirmation No. 6422							
Invention: MODULAR, COLLAPSIBLE BASE FOR FURNITURE, PARTICULARLY CONFERENCE TABLES, AND THE LIKE												
<p style="text-align: center;"><u>COMMISSIONER FOR PATENTS:</u></p> <p>This is a combined Transmittal of Appeal Brief to the Board of Patent Appeals and Interferences and petition under the provisions of 37 CFR 1.136(a) to extend the period for filing an Appeal Brief.</p> <p>Applicant(s) hereby request(s) an extension of time of (check desired time period):</p> <p><input type="checkbox"/> One month <input checked="" type="checkbox"/> Two months <input type="checkbox"/> Three months <input type="checkbox"/> Four months <input type="checkbox"/> Five months</p> <p>from: <u>July 13, 2005</u> until: <u>Sept. 13, 2005</u></p> <p style="text-align: center;"><i>Date</i> <i>Date</i></p> <p>The fee for the Appeal Brief and Extension of Time has been calculated as shown below:</p> <table><tr><td>Fee for Appeal Brief:</td><td><u>\$250.00</u></td></tr><tr><td>Fee for Extension of Time:</td><td><u>\$225.00</u></td></tr><tr><td>TOTAL FEE FOR APPEAL BRIEF AND EXTENSION OF TIME:</td><td><u>\$475.00</u></td></tr></table> <p>The fee for the Appeal Brief and extension of time is to be paid as follows:</p> <p><input type="checkbox"/> A check in the amount of _____ for the Appeal Brief and extension of time is enclosed.</p> <p><input checked="" type="checkbox"/> Please charge Deposit Account No. <u>07-1180</u> in the amount of <u>\$475.00</u></p> <p><input checked="" type="checkbox"/> The Director is hereby authorized to charge payment of the following fees associated with this communication or credit any overpayment to Deposit Account No. <u>07-1180</u></p> <p><input checked="" type="checkbox"/> Any additional filing fees required under 37 C.F.R. 1.16.</p> <p><input type="checkbox"/> Any patent application processing fees under 37 CFR 1.17.</p> <p><input checked="" type="checkbox"/> If an additional extension of time is required, please consider this a petition therefor and charge any additional fees which may be required to Deposit Account No. _____</p> <p><input type="checkbox"/> Payment by credit card. Form PTO-2038 is attached.</p> <p>WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.</p>							Fee for Appeal Brief:	<u>\$250.00</u>	Fee for Extension of Time:	<u>\$225.00</u>	TOTAL FEE FOR APPEAL BRIEF AND EXTENSION OF TIME:	<u>\$475.00</u>
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TOTAL FEE FOR APPEAL BRIEF AND EXTENSION OF TIME:	<u>\$475.00</u>											

**COMBINED TRANSMITTAL OF APPEAL BRIEF TO THE BOARD OF PATENT
APPEALS AND INTERFERENCES & PETITION FOR EXTENSION OF TIME
UNDER 37 C.F.R. 1.136(a) (Small Entity)**

Docket No.
IDS-13802/14

In Re Application Of: Posa et al



Application No. 10/054,122	Filing Date 11/13/2001	Examiner Tan Le	Customer No. 25006	Group Art Unit 3632	Confirmation No. 6422
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Invention: **MODULAR, COLLAPSIBLE BASE FOR FURNITURE, PARTICULARLY CONFERENCE TABLES,
AND
THE LIKE**

TO THE COMMISSIONER FOR PATENTS:

This combined Transmittal of Appeal Brief to the Board of Patent Appeals and Interferences and petition for extension of time under 37 CFR 1.136(a) is respectfully submitted by the undersigned:

Dated: Sept. 13, 2005

Signature

**John G. Posa
Reg. No. 37,424
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Troy, MI 48007-7021**

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9/13/05

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Sheryl L. Hammer

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CC:



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS AND INTERFERENCES

(248) In re application of: Venegas, Jr.

Serial No.: 10/054,122

Group No.: 3632

Filed: Nov. 13, 2001

Examiner: Tan Le

For: MODULAR, COLLAPSIBLE BASE FOR FURNITURE, PARTICULARLY
CONFERENCE TABLES, AND THE LIKE

APPELLANTS' BRIEF UNDER 37 CFR §1.192

Mail Stop Appeal Brief
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Dear Sir:

I. Real Party in Interest

The real party and interest in this case is Frank Venegas, Jr., Applicant and Appellant.

II. Related Appeals and Interferences

There are no appeals or interferences which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

III. Status of Claims

The present application was filed with 17 claims. Claim 18 was added in January 2003. Claims 15-16 have been allowed. Claim 3 has been canceled. Claims 9, 10 and 17 have been withdrawn. Accordingly, claims 1, 2, 4-8, 11-16 and 18 remain pending. Claims 1, 2, 4-7, 11-14 and 18 are pending, rejected and under appeal. Claims 1 and 11 are the independent claims.

**IV. Status of Amendments Filed Subsequent to
Final Rejection**

09/16/2005 SDENB001 00000003 071160 10054122

02 FC:2402
02 FC:2252

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No after-final amendments have been filed.

V. Summary of Claimed Subject Matter

Independent claim 1 resides in a collapsible table, comprising a table base top portion disposed in a generally horizontal plane, the top portion comprising a plurality of releasably interconnected horizontal members for supporting the table top thereon; a support portion for supporting the table base top portion in the generally horizontal plane, the support portion comprising a plurality of elongated members releasably interconnected to one another, the elongated members including leg members having lower ends for engaging the floor; removable structural fittings releasably interconnecting the table base top portion and the support portion so as to form a generally rigid base; and replaceable polymerized sheathing surrounding each of the horizontal members and each of the elongated members, the sheathing having an inner diameter equal to or greater than the outer diameter of the members.

Independent claim 11 resides in a collapsible table, comprising a glass table top; four spaced apart generally vertical legs each having a lower end configured to contact the support surface and an upper end, each of the legs having a height and an outer diameter; replaceable polymerized sheathing surrounding each of the legs, the sheathing having an inner diameter equal to or greater than the outer diameter of the legs; a plurality of spaced apart horizontal rails for supporting the table top thereon, said horizontal rails interconnected with the upper ends of the legs, each of the horizontal rails having an outer diameter and a length; and replaceable polymerized sheathing surrounding each of the horizontal rails, the sheathing having an inner diameter equal to or greater than the outer diameter of the horizontal rails. (Specification, page 2, lines 2-10).

VI. Grounds of Objection/Rejection To Be Reviewed On Appeal

1. The rejection of claims 1-2, 4-7, 11-12, 14 and 18 as being unpatentable under 35 U.S.C. §103(a) over U.S. Patent No. 3,883,257 to Delafield in view of Patent No. 4,662,591 to Encontre.
2. The rejection of claim 6 as being unpatentable under U.S.C. §103(a) over U.S. Patent No. 3,883,257 to Delafield in view of Patent No. 4,662,591 to Encontre, and further in view of U.S. Patent No. 3,462,021 to Hawke et al.

VII. Argument

A. Claims 1 and 11

The independent claims of this application stand rejected under 35 U.S.C. §103(a) over U.S. Patent No. 3,883,257 to Delafield in view of U.S. Patent No. 4,662,591 to Encontre (as well as additional references for a few of the dependent claims).

Applicant submits that there is no support for the Delafield/Encontre combination, largely because there is absolutely no motivation to combine these references. Delafield teaches a molded joint component for tubular frame furniture, such as "occasional tables, bookcases and the like" (column 1, line 6). The Examiner certainly concedes that the construction of Delafield is silent as to any sort of plastic sheathing, but argues that since Encontre discloses "a replaceable sheathing or decorative cover (92)", that it would have been obvious to combine these references "for the desirable purpose of simply catching more area of the table including the table legs and the horizontal members to create a more appearance [sic] and more desired decorative effect."

This reasoning is flawed on several grounds. First, claim 1 includes the limitation of replaceable polymerized sheathing, whereas the cover 92 of Encontre is wooden (column 4, lines 44-48). Thus, even if this combination of references were legitimate, Applicant's claims would not result. Secondly, to the extent that Applicant understands the Examiner's argument, the way in which the table is "caught" by the table legs, is with a small horizontal flange 34, such that putting polymeric sheathing on the tubes of Delafield would defeat the use of that tab in that less of it would be used. It is never obvious to destroy an intended goal or function of a prior-art reference.

Third, the argument that the references should be combined "to create a more appearance [sic] and more desired decorative effect," makes no sense, since the desired decorative effect of Delafield is the use of bright metal plating on all members, including the corner joints. Thus, to add any kind of sheathing would defeat that purpose. Moreover, if the teachings of Encontre were combined with Delafield, the bright metal plating would be covered up with wood. Finally, to reject claims under 35 U.S.C. §103, the Examiner must provide a reason why one having ordinary skill in the pertinent art would have been led to combine references to arrive at Applicant's claimed invention. Moreover, there must be something *in the prior art* that suggests the proposed modification, other than the hindsight gained from knowledge that the inventor choose to combine these particular things in this particular

way. Uniroyal Inc. v. Rudkin-Wiley Corp., 837 F.2d 1044, 1051, 5 USPQ2d 1434, 1438 (Fed. Cir. 1988). The Examiner is further required to make specific findings on a suggestion to combine prior art references. In Re Dembeczak, 175 F.3d 994, 1000-01, 50 USPQ2d 1614, 1617-19 (Fed. Cir. 1999).

Conclusion

In conclusion, for the arguments of record and the reasons set forth above, all pending claims of the subject application continue to be in condition for allowance and Appellant seeks the Board's concurrence at this time.

Respectfully submitted,

By: _____

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Date: Sept. 13, 2005

APPENDIX A**CLAIMS ON APPEAL**

1. A collapsible table, comprising:
 - a table base top portion disposed in a generally horizontal plane, the top portion comprising a plurality of releasably interconnected horizontal members for supporting the table top thereon;
 - a support portion for supporting the table base top portion in the generally horizontal plane, the support portion comprising a plurality of elongated members releasably interconnected to one another, the elongated members including leg members having lower ends for engaging the floor;
 - removable structural fittings releasably interconnecting the table base top portion and the support portion so as to form a generally rigid base; and
 - replaceable polymerized sheathing surrounding each of the horizontal members and each of the elongated members, the sheathing having an inner diameter equal to or greater than the outer diameter of the members.
2. The table base according to claim 1, wherein all of the horizontal and the elongated members are straight.
4. The table base according to claim 1, wherein each of the horizontal and elongated members are hollow metal tubes.
5. The table base according to claim 4, wherein at least one of the structural fittings comprises a slip-in fitting having a base with a radiused end surface matching the outer diameter of one of the tubes, the fitting further having an engagement member extending from the base, the engagement member configured to engage the inner diameter of one of the tubes.
6. The table base according to claim 5, wherein the slip-in structural fitting further comprises a connector operable to connect the fitting to one of the tubes such that the end surface mates with the outer diameter of the tube.

7. The table base according to claim 5, wherein the base of the slip-in structural fitting has an outer diameter substantially the same as the outer diameter of the tube engaged by the engagement member.

11. A collapsible table, comprising:

a glass table top;

four spaced apart generally vertical legs each having a lower end configured to contact the support surface and an upper end, each of the legs having a height and an outer diameter;

replaceable polymerized sheathing surrounding each of the legs, the sheathing having an inner diameter equal to or greater than the outer diameter of the legs;

a plurality of spaced apart horizontal rails for supporting the table top thereon, said horizontal rails interconnected with the upper ends of the legs, each of the horizontal rails having an outer diameter and a length; and

replaceable polymerized sheathing surrounding each of the horizontal rails, the sheathing having an inner diameter equal to or greater than the outer diameter of the horizontal rails.

12. The table base according to claim 11, wherein said plurality of horizontal rails comprises:

a first pair of parallel spaced apart horizontal rails, each rail extending between the upper end of two of the vertical legs and having a first end and a second end; and

a second pair of parallel spaced apart horizontal rails, one rail extending between the first ends of the first pair of horizontal rails and the other rail extending between the second ends of the first pair of horizontal rails.

13. The table base according to claim 11, further comprising a first leg brace extending between two of said legs between the lower and upper ends thereof, the leg brace having a first end interconnected with one leg and a second end interconnected with the other leg.

14. The table base according to claim 11, wherein the sheathing extends substantially the

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entire height of the legs and the entire length of the horizontal rails.

18. The collapsible table of claim 1, where the table top is glass.

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None.

APPENDIX B

EVIDENCE

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APPENDIX C

RELATED PROCEEDINGS

None.